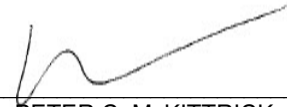


Below is an order of the court.

  
\_\_\_\_\_  
PETER C. MCKITTRICK  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF OREGON

In Re: )  
PETER SZANTO, ) Bankruptcy Case No.  
 ) 16-33185-pcm7  
 )  
 ) ORDER DENYING  
 ) DOC. 984  
Debtor. )  
\_\_\_\_\_ )

Debtor filed a voluntary chapter 11 petition in August of 2016. In December of 2017, the Court entered an Order Converting Chapter 11 Case to Case Under Chapter 7 (the Conversion Order). Doc. 278. Almost a year after entry of the Conversion Order, Debtor filed a motion for reconsideration of the Conversion Order (the Motion for Reconsideration), Doc. 620, which this court denied. Doc. 652. In January of 2020, the United States District Court for the District of Oregon (the District Court) determined that Debtor failed to timely appeal the Conversion Order and affirmed denial of the Motion for Reconsideration. Doc. 879.

In May of 2020, Debtor filed a document captioned Peter Szanto's

1 Notice of Demand for Immediate Return of all of Peter Szanto's Bankruptcy  
2 Estate Assets and All of Susan Szanto's Separate Property Assets (the  
3 Demand). Doc. 970. Debtor argued in the Demand that he is entitled to  
4 return of "all his Bankruptcy estate's assets" and the alleged separate  
5 property of his wife, which Debtor contends has been "impermissibly  
6 seized and improperly co-mingled with" bankruptcy estate assets. Doc.  
7 970, pp. 2-3 (emphasis removed).

8 The Court entered an order denying the Demand (the Order). Doc.  
9 973. In so doing, the Court stated that "[t]he Demand is the latest  
10 example of Debtor's long-standing efforts to avoid the consequences of  
11 the conversion of this case to chapter 7, all of which efforts this court  
12 has denied" and expressly found that the Demand was frivolous. Doc. 973,  
13 p. 2. The Order states, in pertinent part:

14 The Bankruptcy Code and Federal Rules of Bankruptcy Procedure  
15 include specific and detailed instructions regarding the  
16 distribution of estate assets. See Bankruptcy Code, Chapter 7,  
17 Subchapter II; Fed. R. Bankr. P., Part III. Administration of this  
18 chapter 7 case is not complete. There is no authority under which  
19 this Court may bypass applicable statutes and rules and allow the  
20 release of estate funds to Debtor. Finally, to the extent Debtor is  
21 attempting to raise claims on behalf of his wife, this court has  
22 repeatedly told Debtor that he does not represent, and may not  
23 assert claims on behalf of, his wife. If Debtor's wife wishes to  
24 assert claims in this bankruptcy case, she must do so personally or  
25 via a licensed attorney.

26 Id. at pp. 2-3.

Now, Debtor has filed a Notice of Motion and Motion for Relief from  
[the] Order (the Motion for Relief), Doc. 984, and a declaration in  
support thereof. Doc. 985. Debtor does not request a hearing and the  
court determines that a hearing is not necessary. LBR 7007-1(d)(1).

Debtor relies on Fed. R. Bankr. P. 60(b)(1), made applicable to

1 bankruptcy cases with certain exceptions not applicable here by Fed. R.  
2 Bankr. P. 9024. Rule 60(b)(1) provides that a court may relieve a party  
3 from a final order for "mistake, inadvertence, surprise, or excusable  
4 neglect." Debtor argues he is entitled to relief from the Order based on  
5 two mistakes of law. The Motion for Relief is frivolous and will be  
6 denied.

7 First, Debtor argues that he is entitled to the immediate return of  
8 all estate assets because this is an improperly commenced involuntary  
9 bankruptcy case and thus this Court and the chapter 7 trustee are acting  
10 without any legal authority. As evidence of this Court's alleged mistake  
11 of law, Debtor provides an excerpt of a order of the District Court (the  
12 District Court Order) stating that "the Bankruptcy Court converted  
13 Szanto's voluntary Chapter 11 petition to an involuntary Chapter 7  
14 bankruptcy[.]" The District Court Order, which Debtor attached to  
15 document number 985, was entered in one of the numerous appeals currently  
16 pending before the District Court. Debtor takes the District Court's  
17 statement out of context and his reliance on the District Court Order is  
18 misplaced. Read in its entirety, the District Court Order undercuts  
19 Debtor's position in the Motion for Relief and, in fact, supports the  
20 order from which Debtor seeks relief.

21 The District Court Order was entered in February of 2020, in  
22 response to an emergency motion filed by Debtor to stay a trial on a  
23 complaint to deny Debtor a discharge under 11 U.S.C. § 727. Debtor  
24 argued to the District Court that, by filing an amended bankruptcy  
25 petition, he had unilaterally ended this chapter 7 bankruptcy case. The  
26 District Court Order rejects that contention and even clarifies that

1 "upon conversion to Chapter 7, Szanto's assets became the property of the  
2 bankruptcy estate, subject to his right to claim certain property as  
3 exempt." Doc. 985. The District Court Order does not support Debtor's  
4 contention that this is an improperly commenced involuntary bankruptcy  
5 case or that this Court has no authority over assets of the chapter 7  
6 bankruptcy estate. It is true that this case was converted to chapter 7  
7 over Debtor's objection. That does not, however, transform this case  
8 into an involuntary bankruptcy case within the meaning of the Bankruptcy  
9 Code.

10 Second, Debtor argues that the Court erred in reiterating that  
11 Debtor may not assert claims on behalf of his wife because California  
12 community property law allows him to "advocate on behalf of the Susan and  
13 Peter Szanto Community Property estate." Doc. 984, p. 6. There are  
14 several problems with this argument. First, in the Demand, Debtor  
15 requests the immediate return of his wife's alleged separate property,  
16 not community property. Second, Debtor stated at the inception of this  
17 bankruptcy case, under penalty of perjury, that he and his wife have no  
18 community property. See Doc. 20. In any event, the Court has told  
19 Debtor, numerous times, that community property assets are property of  
20 the estate pursuant to § 541(a) and that property of the estate must be  
21 administered in conformance with the Bankruptcy Code.

22 Debtor has not demonstrated grounds for relief under Rule 60(b)(1).

23 Alternatively, Debtor requests that the Court certify this matter  
24 for appeal to the Bankruptcy Appellate Panel for the Ninth Circuit.  
25 Debtor does not cite any authority under which this Court can make the  
26 requested certification and fails to show that the request for

1 certification is procedurally proper or substantively warranted.

2 Therefore, for the reasons set forth above,

3 IT IS HEREBY ORDERED that the Motion for Relief is DENIED.

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5 cc: Peter Szanto (via ECF)  
6 Chapter 7 Trustee (via ECF)  
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